



Health Facility Compliance Guidance Letter

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| Number: GL 21-2003-A |
| Title: In-Person Hospital Visitation During Certain Periods of Disaster (HB 2211-87R) [Amended] |
| Provider Types: General and Special Hospitals |
| Date Issued: September 30, 2022 |

1.0 Subject and Purpose

This amended guidance letter replaces the previous GL 21-2003, issued on September 15, 2021, to notify providers the Texas Health and Human Services Commission (HHSC) adopted a rule in Texas Administrative Code Title 25 (25 TAC) Chapter 133 to implement [House Bill \(HB\) 2211](#), which is described in this guidance letter. This rule, which took effect September 29, 2022, was published in the September 23, 2022, issue of the *Texas Register* (47 TexReg 6197). Refer to new [Section 2.3](#) below for more information about this rule.

HHSC provides guidance to licensed providers on legislation passed during the 87th Legislature, Regular Session (2021). HB 2211, relating to in-person visitation with hospital patients during certain periods of disaster, took effect September 1, 2021.

This letter provides instruction to general and special hospitals on the passage of HB 2211 and outlines provider responsibilities and expectations.

Note: General and special hospitals must also comply with SB 572, relating to in-person visitation of religious counselors with certain health care facility patients and residents during a public health emergency. [Refer to Guidance Letter \(GL\) 21-2004-A](#), issued on September 30, 2022, for details.

2.0 Legislation Details & Provider Responsibilities

HB 2211 amended Texas Health and Safety Code (HSC) Chapter 241 by adding [§241.012](#), which requires a general or special hospital to allow each

hospital patient at least one in-person visitor during a qualifying period of disaster¹ unless:

- A federal law or agency requires the hospital to prohibit in-person visitation during that period;² or
- The patient's attending physician determines in-person visitation with the patient could transmit an infectious agent that poses a serious community health risk.³

Important Note: A hospital may not prohibit in-person visitation by a religious counselor visiting a seriously ill or dying hospital patient for any reason other than the religious counselor's failure to comply with the hospital's health screening requirements or to wear personal protective equipment at all times while visiting the patient.⁴

2.1 Authorized Hospital Visitation Procedures to Ensure Health and Safety

While HB 2211 requires a hospital to permit in-person hospital patient visitation, HB 2211 authorizes a general or special hospital to take any of the following actions to ensure health and safety during a qualifying period of disaster:

- Restrict the number of hospital patient in-person visitors, if the hospital permits each hospital patient at least one in-person visitor;⁵
- Require a visitor to the hospital to:
 - Complete a health screening before entry to the hospital;⁶ and
 - Wear personal protective equipment at all times while visiting a patient at the hospital;⁷ and
- Deny a visitor's entry to the hospital or remove a visitor from the hospital's premises who fails or refuses to:

¹ Defined at HSC §241.012(a)(3).

² HSC §241.012(b).

³ HSC §241.012(f)(2).

⁴ HSC §241.012(i), (c)(2).

⁵ HSC §241.012(c)(1).

⁶ HSC §241.012(c)(2)(A).

⁷ HSC §241.012(c)(2)(B).

- Permit the hospital to perform a health screening prior to the visitor entering the hospital;⁸
- Pass the hospital's health screening requirements;⁹ or
- Wear personal protective equipment meeting the hospital's infection control and safety requirements as prescribed by the hospital.¹⁰

HB 2211 also requires a general and special hospital to conduct a health screening of hospital visitors that complies with hospital policy and any guidance or directives issued by HHSC, the Centers for Medicare and Medicaid Services, or another agency having regulatory authority over the hospital.¹¹

Under HB 2211, a hospital is not required to provide a specific type of personal protective equipment to a hospital visitor or allow in-person visitation with a hospital patient if the patient's attending physician determines in-person visitation with the patient could transmit an infectious agent that poses a serious community health risk.¹²

2.2 Attending Physician Determination and Additional Hospital Requirements

When a patient's attending physician determines a patient should not have an in-person visitor because in-person visitation may lead to the transmission of an infectious agent that poses a serious community health risk, HB 2211 states the physician's determination is valid for up to five days following the date of the decision, unless an attending physician renews the decision.¹³

HB 2211 also requires the hospital to provide a daily written or verbal update about the patient's condition¹⁴ and the patient's estimated discharge date and time¹⁵ to a visitor who the hospital denied an in-person visit because of a physician's determination to prevent in-person visitation if:

⁸ HSC §241.012(c)(3)(A).

⁹ HSC §241.012(c)(3)(A).

¹⁰ HSC §241.012(c)(3)(B).

¹¹ HSC §241.012(d).

¹² HSC §241.012(f).

¹³ HSC §241.012(g).

¹⁴ HSC §241.012(h)(1).

¹⁵ HSC §241.012(h)(2).

- The patient authorizes the hospital to provide the visitor with the patient's relevant health information;¹⁶
- The visitor has authority to receive the patient's health information under an advance directive or medical power of attorney;¹⁷ or
- The hospital's policy and other applicable law qualifies the visitor as the patient's surrogate decision-maker regarding the patient's health care needs.¹⁸

2.3 HHSC Rule Implementing HB 2211

To implement HB 2211's provisions, HHSC adopted a new rule at [25 TAC §133.51](#), which took effect September 29, 2022.

3.0 Background/History

All licensed general and special hospitals must comply with all requirements under HSC Chapter 241, including new HSC §241.012, which prohibits general and special hospitals from prohibiting in-person visitation with a patient during a qualifying period of disaster unless a federal law or agency requires the hospital to prohibit in-person visitation during that period.

4.0 Resources

View House Bill 2211 (87th Legislature, Regular Session, 2021) at: <https://capitol.texas.gov/tlodocs/87R/billtext/html/HB02211F.htm>.

View Health and Safety Code, Chapter 241, Hospitals, at: <https://statutes.capitol.texas.gov/Docs/HS/htm/HS.241.htm>.

View GL 21-2004-A, In-Person Religious Counselor Visitation During a Public Health Emergency (SB 572-87R), at <https://www.hhs.texas.gov/sites/default/files/documents/doing-business-with-hhs/provider-portal/facilities-regulation/memos/gl-21-2004.pdf>.

View 25 TAC §133.51 at: [https://texreg.sos.state.tx.us/public/readtac\\$ext.TacPage?sl=R&app=9&p_dlr=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=25&pt=1&ch=133&rl=51](https://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dlr=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=25&pt=1&ch=133&rl=51).

To receive future updates, sign up for GovDelivery at: <https://service.govdelivery.com/accounts/TXHHSC/subscriber/new>.

¹⁶ HSC §241.012(h)(1)(A).

¹⁷ HSC §241.012(h)(1)(B).

¹⁸ HSC §241.012(h)(1)(C).

5.0 Contact Information

If you have any questions about this letter, please contact the Policies and Rules Unit by email at: HCR_PRU@hhs.texas.gov.